

WRITTEN TESTIMONY

OF

Jimmy D. Wriston, P.E.

**West Virginia Secretary of Transportation
Commissioner of the Division of Highways**

HEARING ON

Oversight of the Infrastructure Investment and Jobs Act implementation

Committee on Environment and Public Works

United States Senate

Wednesday, September 21, 2022

Introduction

Mr. Chairman, Ranking Member Capito, and Committee Members, thank you for the opportunity to appear today to speak to the impacts of the Infrastructure Investment Jobs Act (IIJA) to West Virginia.

My name is Jimmy Wriston and I serve as the Secretary of the West Virginia Department of Transportation and the Commissioner of the Division of Highways. I am a long-time public employee in transportation and it is my great honor to lead West Virginia Agencies in these historic times of great opportunity.

I am particularly grateful for the efforts of this committee in its efforts toward moving our transportation infrastructure forward to meet the needs of the future. For decades, we as a nation, have underinvested in our infrastructure and the results are very apparent to all of us. The passage of the IIJA is a shining bright spot, lighting a path to the future and clearly demonstrates a commitment to a better life for all our citizens. I thank all of you for the support and leadership that was required for the IIJA to become the law of the land. Now the real work begins with the implementation of the programs.

The mission of the IIJA is quite clear; to deliver a modern, safe, efficient transportation system while addressing resilience, equity, and environmental concerns. The need to deliver for the people of our county cannot be overstated.

It is my wish today to communicate to the Committee the West Virginia perspective. I intend to highlight the many positives and items that fit well in West Virginia. I will also point at various issues and challenges that will hinder the implementation of the IJA and greatly deter taking advantage of the enormous potential we have before us.

West Virginia has the sixth largest highway system in the country and more than 7, 100 highway bridges. We are a rural state with, as West Virginia Governor Jim Justice says on many occasions, four wonderful seasons, majestic mountains, clean water in our many rivers and streams. We have diverse topography and geology. It is very challenging and expensive to build and maintain roads in West Virginia. We are one of four states that have responsibility for the vast majority of our highways, approximately 94% of all our roads.

In order to emphasize economic development and diversify our economy, West Virginia has put education and infrastructure as the focal point of our efforts. Our efforts are united from the Governor's office, our State Legislature, partnerships between all the state agencies, local communities, as well as any and all stakeholders. Any West Virginia with a great idea can and will be heard. We look to the Federal Agencies to not only be partners, but advocates for the states in delivering the IJA programs.

We are many decades past the "building of the interstates" era. Our network of interstate highways was completed before anyone ever heard of a silt fence to mitigate erosion. Indeed, mostly before even the creation of the Environmental Protection Agency (EPA). State Department of Transportation's (DOT) evolved over this time and learned much in regard to meeting our objectives. Our modern National Erosion Protection Act (NEPA) process must evolve as well. We must move forward to create efficiency, address issues on the front end of projects, reduce review times, and communicate consistent decisions. Federal and State agencies must rebuild our partnerships to counteract our loss of trust in each other. We have to hear each other and approach solutions not with a "one size fits all" mentality, but with openness, reasonableness and compromise. Communication and compromise was the roadway used to achieve success in crafting the IJA. The same roadway is necessary to deliver it.

Leveraging the opportunities of the IJA

Much of the funding contained within the IJA is formula funding. For West Virginia, this is critically important. As a rural state with programs that are very much dependent on federal dollars, formula programs provide optimal balance on national goals with State and local decision making. The flexibility necessary for each unique state to meet its unique investment needs is paramount to the success of the entire program. This is especially true for West Virginia, as well as other rural states. Without appropriate flexibility, implementation of the IJA will surely be inefficient and wasteful, squandering much of the opportunities for our citizens. The importance of formula programs cannot be understated. I believe this to be true, not only for West Virginia, but all 52 Transportation Departments. The highest-ranking metric of measuring how well this program is working will indeed be the success implementing the formula programs and the

challenges with the discretionary portion. Today, I predict with confidence the states will deliver the formula programs with great success; however, I can just as confidently predict that one year from now, a main topic of conversation will be the challenges of discretionary categories of the IIJA. The processes are just too convoluted, complex, and communicating guidance efficiently is a continuing failure. We must work together with our federal partners and find new ways to accomplish our mission.

The opportunities in the IIJA to address rural needs are much appreciated by West Virginians. Thank you, Senator Capito, for your efforts in bringing the unique rural challenges to the forefront and thanks to all the members for recognizing these challenges. West Virginia may very well be the only state in the nation that measures distance in units of driving time. The programs that emphasize our rural nature allows the Department to implement investment strategies and projects that reduces travel time, safely and efficiently enriches the lives of West Virginians. Many of the top priority projects for West Virginia have lagged for years, implemented in a piecemeal fashion. Provisions in the IIJA will expedite the progress on Corridor “H”, Coalfields Expressway, and the King Coal Highway. Success in these important projects will spread throughout the West Virginia highway system, freeing up dollars for secondary roads.

Upon my first reading the Bridge Program, I must confess that I initially had some concerns. A set minimum for off-system bridges is an eye-catching detail for a state like West Virginia for which nearly all the bridges are state-owned or, at the very least, already Federal Aid eligible. As more information was supplied over the months after passage of the IIJA, I can now report the Bridge Program matches very well with West Virginia’s program, investment strategy, as well as our Transportation Asset Management Plan (TAMP). Our Bridge Management System, perhaps the most comprehensive in the country, tells us that approximately 15.2% of our bridges are off-system bridges. With careful analysis, we have determined that with our investment strategy, we will be able to address all the off-system bridges with a poor rating, while moving the state-owned bridges ever closer to our target goal as determined in our submitted TAMP to the Federal Highway Agency (FHWA). West Virginia bridges are in dire need of attention and the funding levels we now expect give us the opportunity to make great strides in this area. I must be clear. West Virginia’s bridges are safe for the traveling public but they require care and attention. The modern bridge inspection program was born out of tragedy in West Virginia with the collapse of the Silver Bridge in Point Pleasant. There is not one bridge engineer in West Virginia that is not intimately familiar with that story and the significance of their profession.

The increase of funding levels and emphasizes on safety demonstrates the wisdom of the crafter of the IIJA. In West Virginia, all projects are safety projects, and well they should be. Incidents on our roadways and in our work zones are indeed on the rise. The programmatic increase in funding fills a much-needed gap and the WVDOT joins our American Association State Highway Transportation Organization (AASHTO) partners in our pledge to urgently move toward zero fatalities. Safety, mobility, and access for all cannot be buzz words or just campaign slogans for public outreach. The IIJA will allow states to focus on real solutions through technology to ultimately achieve this goal.

Testimony of Jimmy D. Wriston, P.E.

*West Virginia Secretary of Transportation/Commissioner of Highways
Oversight of the IIJA Committee on Environment and Public Works*

Page | 3 of 5

Challenges and Concerns

West Virginia certainly acknowledges that while no program is perfect, we do in fact strive to be perfect. The IIJA represents a once in a lifetime opportunity to begin to invest in our nation's infrastructure. It is in the spirit of striving to be perfect and identify issues important to West Virginia that I report challenges we face in implementing the IIJA. Future generations will assess us in how well we work together and solve these issues.

First of all, I will reiterate the importance of formula funding to West Virginia. Discretionary programs have inherit issues for small rural states with large highway systems, such as unpredictable funding levels, award amounts, and varying state matching levels. Eligibility requirements can be quite confusing and hinder the ability to obligate the money. As with all highway programs, fiscal constraints are the first requirement; therefore, development milestones are limited until the award is actually made. Many good projects have been applied for that are not included in the local Transportation Improvement Plan (TIP) or the state's State Transportation Improvement Plan (STIP). West Virginia relies on federal funding to deliver its program. We are the only state reporting declining population and revenues have yet to bounce back to pre-pandemic levels. Formula programs allow better planning, more efficient front-end coordination, and ensures project delivery on-time.

Coordination with various Federal Agencies is chaotic at best. The IIJA passed in December of 2021. We are now at the end of the Federal FY2022 with many details and guidance still in flux. Directions to the states from FHWA Division offices is inconsistent. West Virginia had approval to flex funds, which is an invaluable tool for states, only to receive a rather "stern" letter from FHWA Central office regarding this transfer. In discussion with other states, many had sought to utilize this same approach only to be denied approval though clearly within the rules. The timeline for receiving guidance through the process of issuing the notices of funding availability, comment periods for proposed rules, and actual publications of the registry for rules on many of the IIJA programs appears to be in disarray. In many cases, we have received deadlines for program plans prior to information concerning eligibility requirements and funding levels. Much of this inconstant and scattered levels of communications can be attributed to work force availability at the federal level. The three big concerns of work force, supply chain and materials availability, as well as outrageous inflation are well known and most assuredly affects the federal agency levels as much as the entire country. A comprehensive IIJA delivery plan is called for and is much preferable to the piecemeal approach of the last year. To date, West Virginia does not have its National Electric Vehicle Implementation (NEVI) plan approved and just last week submitted comments on the Green House Gas (GHG) performance measures for consideration in the rule making process.

West Virginia is not alone in its concerns with implementation issues. The administration of discretionary grants, Buy America details, cost escalation, work force shortages, capacity projects and bureaucratic project delivery requirements all reduce the effectiveness of the entire investment for all states.

Lack of trust and cooperation is not confined to the interactions between states and the FHWA. West Virginia is experiencing multiple hardships in delivering projects that involve the United States Fish and Wildlife Service (USFW). Extended delays with reviews and responses are draining precious resources of time and funding.

The West Virginia interpretation of the One Federal Record Decision is that it provides the framework for expediting not only the NEPA process but permitting as well. We currently pay USFW for the services of an employee to process our project development documents. We are working toward an agreement to provide another but it needs to be clearly understood and spelled out in our Memorandum of Understanding (MOU), these employees are to be dedicated to West Virginia projects. In a recent meeting with the USFW Director and staff, we expressed concerns regarding pushing every issue to a time consuming, formal consultation process. Less than a week later, we received notification that our number one priority project would require formal consultation for temporary impacts. Our view that issues should be resolved on the front end of development and every effort made to avoid formal consultation be avoided were largely dismissed. On our Corridor “H” project, we have worked diligently for years to provide protection for USFW priorities. To now enter lengthy formal consultation on an eight-mile section for temporary impacts associated with core boring activities appear not only unreasonable but punitive. The single issue seems to be the alleged capture of two bumble bees that, reportedly, were found outside our preferred alignment after we ourselves spent more than three years screening for this species with FWS protocols. West Virginians have great concern for the wellbeing of our fish and wildlife. There is no state prouder of our environment and we understand what it means to our growing diverse economy but more important, our great outdoors is who we are. Our core values are entwined with our love of our natural resources. As an engineer, we were first Conservationists. We know we can build and maintain a safe, efficient, modern infrastructure that can co-exist within the beauty and necessity of our natural wonders. West Virginia shares the mission of our federal partners but object strenuously to the expenditure of resources that do not accomplish those objectives. I strongly urge this Committee to be our true representatives in serving as the watchdog in implementing the IJA in the bipartisan manner in which it was created. Not from a policy standpoint, nor to promote a political agenda; but rather to follow the law as written and provide reasonable guidance that can be successfully implemented for the good of all.

I am truly thankful for this opportunity and would be pleased to provide more detail or answer any questions. Thank you, Chairman, Senator Capito and the Committee Members for allowing me to participate.